

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

HARVEST SMALL BUSINESS FINANCE, LLC, a California Limited Liability Company, and HARVEST COMMERCIAL CAPITAL, LLC, a Delaware Limited Liability Company,

Plaintiffs,

VS.

EVAN MITNICK, MICHELLE
CHAMNESS, MICHAEL
SANCHEZ, SCOTT WHITFIELD,
JASON CHUN, ROBERT
FORSYTHE, NEW DAY BUSINESS
FINANCE LLC, and VELOCITY
COMMERCIAL CAPITAL, LLC
d/b/a NEW DAY COMMERCIAL
CAPITAL, LLC,

Defendants.

Case No. 8:24-CV-00032-MRA
(DFMX)

STIPULATED PROTECTIVE ORDER

1 1. PURPOSES AND LIMITATIONS

2 As the parties have represented that discovery in this action is likely to
3 involve production of material that one or more parties contend is confidential,
4 proprietary, or private information for which special protection from public
5 disclosure and from use for any purpose other than prosecuting this litigation may
6 be warranted, this Court enters the following Protective Order. This Order does not
7 confer blanket protections on all disclosures or responses to discovery. The
8 protection it affords from public disclosure and use extends only to the limited
9 information or items that are entitled to confidential treatment under the applicable
10 legal principles. Further, as set forth in Section 13.3, below, this Protective Order
11 does not entitle the parties to file confidential information under seal. Rather, when
12 the parties seek permission from the court to file material under seal, the parties
13 must comply with Civil Local Rule 79-5 and with any pertinent orders of the
14 assigned District Judge and Magistrate Judge.

15 2. GOOD CAUSE STATEMENT

16 This action is likely to involve material that one or more parties contend is
17 trade secret or otherwise confidential for which special protection from public
18 disclosure and from use for any purpose other than prosecution of this action is
19 warranted. Such allegedly confidential and proprietary materials and information
20 consist of, among other things, confidential business or financial information,
21 information regarding confidential business practices, or other confidential research,
22 development, or commercial information (including information implicating privacy
23 rights of third parties), information otherwise generally unavailable to the public, or
24 which may be privileged or otherwise protected from disclosure under state or
25 federal statutes, court rules, case decisions, or common law. Accordingly, to
26 expedite the flow of information (including where the parties disagree as to the
27 confidentiality of particular material), to facilitate the prompt resolution of disputes
28 over confidentiality of discovery materials, to adequately protect information the

1 parties are entitled to keep confidential, to ensure that the parties are permitted
2 reasonable necessary uses of such material in preparation for and in the conduct of
3 trial, to address their handling at the end of the litigation, and serve the ends of
4 justice, a protective order for such information is justified in this matter. It is the
5 intent of the parties that information will not be designated as confidential for
6 tactical reasons and that nothing be so designated without a good faith belief that it
7 has been maintained in a confidential, non-public manner, and there is good cause
8 why it should not be part of the public record of this case.

9 3. DEFINITIONS

10 3.1 Action: The instant above-captioned action.

11 3.2 Challenging Party: a Party or Non-Party that challenges the
12 designation of information or items under this Order.

13 3.3 “CONFIDENTIAL” Information or Items: information (regardless of
14 how it is generated, stored or maintained) or tangible things that qualify for
15 protection under Federal Rule of Civil Procedure 26(c), and as specified above in
16 the Good Cause Statement.

17 3.4 “HIGHLY CONFIDENTIAL -- ATTORNEYS’ EYES ONLY”

18 Information or Items: extremely sensitive “CONFIDENTIAL” Information or
19 Items, the disclosure of which to another Party or Non-Party would create a
20 substantial risk of serious harm that could not be avoided by less restrictive means.

21 3.5 Counsel: Outside Counsel of Record and House Counsel (as well as
22 their support staff).

23 3.6 Designating Party: a Party or Non-Party that designates information or
24 items that it produces in disclosures or in responses to discovery as
25 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL -- ATTORNEYS’ EYES
26 ONLY.”

27 3.7 Disclosure or Discovery Material: all items or information, regardless
28 of the medium or manner in which it is generated, stored, or maintained (including,

1 among other things, testimony, transcripts, and tangible things), that are produced or
2 generated in disclosures or responses to discovery in this matter.

3 3.8 Expert: a person with specialized knowledge or experience in a matter
4 pertinent to the litigation who has been retained by a Party or its counsel to serve as
5 an expert witness or as a consultant in this Action.

6 3.9 House Counsel: attorneys who are employees of a party to this Action.
7 House Counsel does not include Outside Counsel of Record or any other outside
8 counsel.

9 3.10 Non-Party: any natural person, partnership, corporation, association, or
10 other legal entity not named as a Party to this action.

11 3.11 Outside Counsel of Record: attorneys who are not employees of a
12 party to this Action but are retained to represent or advise a party to this Action and
13 have appeared in this Action on behalf of that party or are affiliated with a law firm
14 which has appeared on behalf of that party, and includes support staff.

15 3.12 Party: any party to this Action, including all of its officers, directors,
16 employees, consultants, retained experts, and Outside Counsel of Record (and their
17 support staffs).

18 3.13 Producing Party: a Party or Non-Party that produces Disclosure or
19 Discovery Material in this Action.

20 3.14 Professional Vendors: persons or entities that provide litigation
21 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
22 demonstrations, and organizing, storing, or retrieving data in any form or medium)
23 and their employees and subcontractors.

24 3.15 Protected Material: any Disclosure or Discovery Material that is
25 designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL --
26 ATTORNEYS’ EYES ONLY.”

27 3.16 Receiving Party: a Party that receives Disclosure or Discovery
28 Material from a Producing Party.

1 4. SCOPE

2 The protections conferred by this Order cover not only Protected Material (as
3 defined above), but also (1) any information copied or extracted from Protected
4 Material; (2) all copies, excerpts, summaries, or compilations of Protected Material;
5 and (3) any deposition testimony, conversations, or presentations by Parties or their
6 Counsel that might reveal Protected Material, other than during a court hearing or at
7 trial.

8 Any use of Protected Material during a court hearing or at trial shall be
9 governed by the orders of the presiding judge. This Order does not govern the use
10 of Protected Material during a court hearing or at trial.

11 5. DURATION

12 Even after final disposition of this litigation, the confidentiality obligations
13 imposed by this Order shall remain in effect until a Designating Party agrees
14 otherwise in writing or a court order otherwise directs. Final disposition shall be
15 deemed to be the later of (1) dismissal of all claims and defenses in this Action, with
16 or without prejudice; and (2) final judgment herein after the completion and
17 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
18 including the time limits for filing any motions or applications for extension of time
19 pursuant to applicable law.

20 6. DESIGNATING PROTECTED MATERIAL

21 6.1 Exercise of Restraint and Care in Designating Material for Protection.

22 Each Party or Non-Party that designates information or items for protection under
23 this Order must take care to limit any such designation to specific material that
24 qualifies under the appropriate standards. The Designating Party must designate for
25 protection only those parts of material, documents, items, or oral or written
26 communications that qualify so that other portions of the material, documents,
27 items, or communications for which protection is not warranted are not swept
28 unjustifiably within the ambit of this Order.

1 Mass, indiscriminate, or routinized designations are prohibited. Designations
 2 that are shown to be clearly unjustified or that have been made for an improper
 3 purpose (e.g., to unnecessarily encumber the case development process or to impose
 4 unnecessary expenses and burdens on other parties) may expose the Designating
 5 Party to sanctions.

6 If it comes to a Designating Party's attention that information or items that it
 7 designated for protection do not qualify for protection, that Designating Party must
 8 promptly notify all other Parties that it is withdrawing the inapplicable designation.

9 6.2 Manner and Timing of Designations. Except as otherwise provided in
 10 this Order (see, e.g., second paragraph of Section 6.2(a) below), or as otherwise
 11 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
 12 under this Order must be clearly so designated before the material is disclosed or
 13 produced.

14 Designation in conformity with this Order requires:

15 (a) for information in documentary form (e.g., paper or electronic
 16 documents, but excluding transcripts of depositions), that the Producing Party affix
 17 at a minimum, the legend "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL --
 18 ATTORNEYS' EYES ONLY" to each page that contains protected material. If
 19 only a portion or portions of the material on a page qualifies for protection, the
 20 Producing Party also must clearly identify the protected portion(s) (e.g., by
 21 providing redactions or other designations distinguishing between the protected and
 22 unprotected or lesser-protected material).

23 A Party or Non-Party that makes original documents available for inspection
 24 need not designate them for protection until after the inspecting Party has indicated
 25 which documents it would like copied and produced. During the inspection and
 26 before the designation, all of the material made available for inspection shall be
 27 deemed "CONFIDENTIAL." After the inspecting Party has identified the
 28 documents it wants copied and produced, the Producing Party must determine which

1 documents, or portions thereof, qualify for protection under this Order. Then,
2 before producing the specified documents, the Producing Party must affix the
3 “CONFIDENTIAL”, or “HIGHLY CONFIDENTIAL -- ATTORNEYS’ EYES
4 ONLY” legend to each page that contains Protected Material. If only a portion or
5 portions of the material on a page qualifies for protection, the Producing Party also
6 must clearly identify the protected portion(s) (e.g., by making appropriate markings
7 in the margins).

10 (c) for information produced in some form other than documentary and
11 for any other tangible items, that the Producing Party affix in a prominent place on
12 the exterior of the container or containers in which the information is stored the
13 legend "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL -- ATTORNEYS'
14 EYES ONLY." If only a portion or portions of the information warrants protection,
15 the Producing Party, to the extent practicable, shall identify the protected portion(s).

16 6.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
17 failure to designate qualified information or items does not, standing alone, waive
18 the Designating Party's right to secure protection under this Order for such material.
19 Upon timely correction of a designation, the Receiving Party must make reasonable
20 efforts to assure that the material is treated in accordance with the provisions of this
21 Order.

7. CHALLENGING CONFIDENTIALITY DESIGNATIONS

23 7.1 Timing of Challenges. Any Party or Non-Party may challenge a
24 designation of confidentiality at any time that is consistent with the Court's
25 Scheduling Order.

26 7.2 Meet and Confer. The Challenging Party shall initiate the dispute
27 resolution process under Local Rule 37-1, *et seq.*, and the Designating Party shall
28 make itself available for a telephonic meet and confer within five business days of

1 the challenge. The parties agree to submit designation challenges in the first
 2 instance to the Court's informal telephonic conference process for discovery
 3 disputes.

4 7.3 The burden of persuasion in any such challenge proceeding shall be on
 5 the Designating Party. Frivolous challenges, and those made for an improper
 6 purpose (e.g., to harass or impose unnecessary expenses and burdens on other
 7 parties) may expose the Challenging Party to sanctions. Unless the Designating
 8 Party has waived or withdrawn the confidentiality designation, all parties shall
 9 continue to afford the material in question the level of protection to which it is
 10 entitled under the Producing Party's designation until the Court rules on the
 11 challenge.

12 8. ACCESS TO AND USE OF PROTECTED MATERIAL

13 8.1 Basic Principles. A Receiving Party may use Protected Material that is
 14 disclosed or produced by another Party or by a Non-Party in connection with this
 15 Action only for prosecuting, defending, or attempting to settle this Action. Such
 16 Protected Material may be disclosed only to the categories of persons and under the
 17 conditions described in this Order. When the Action has been terminated, a
 18 Receiving Party must comply with the provisions of Section 14 below.

19 Protected Material must be stored and maintained by a Receiving Party at a
 20 location and in a secure manner that ensures that access is limited to the persons
 21 authorized under this Order.

22 8.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless
 23 otherwise ordered by the court or permitted in writing by the Designating Party, a
 24 Receiving Party may disclose any information or item designated
 25 "CONFIDENTIAL" only to:

26 (a) the Receiving Party's Outside Counsel of Record in this Action, as
 27 well as employees of said Outside Counsel of Record to whom it is reasonably
 28 necessary to disclose the information for this Action;

(b) the officers, directors, and employees (including House Counsel) of the Receiving Party to whom disclosure is reasonably necessary for this Action;

(c) Subject to Section 7.4, experts (as defined in this Order) of the Receiving Party to whom disclosure is reasonably necessary for this Action and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(d) the court and its personnel;

(e) private court reporters and their staff to whom disclosure is reasonably necessary for this Action and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(f) professional jury or trial consultants, mock jurors, and Professional Vendors to whom disclosure is reasonably necessary for this Action and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(g) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information;

(h) during their depositions, witnesses, and attorneys for witnesses, in the Action to whom disclosure is reasonably necessary provided: (1) the deposing party requests that the witness sign the “Acknowledgment and Agreement to Be Bound” (Exhibit A); and (2) they will not be permitted to keep any confidential information unless they sign the “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise agreed by the Designating Party or ordered by the court. Pages of transcribed deposition testimony or exhibits to depositions that reveal Protected Material may be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this Protective Order;

(i) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information; and

(j) any mediator or settlement officer, and their supporting personnel, mutually agreed upon by any of the parties engaged in settlement discussions.

8.3 Disclosure of "HIGHLY CONFIDENTIAL -- ATTORNEYS' EYES"

1 ONLY” Information or Items. Unless otherwise ordered by the court or permitted in
2 writing by the Designating Party, a Receiving Party may disclose any information or
3 item designated “HIGHLY CONFIDENTIAL” only to:

4 (a) the Receiving Party’s Outside Counsel of Record in this Action, as well
5 as employees of said Outside Counsel of Record to whom it is reasonably necessary
6 to disclose the information for this Action;

7 (b) Subject to Section 7.4, experts (as defined in this Order) of the Receiving
8 Party to whom disclosure is reasonably necessary for this Action and who have
9 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

10 (c) the court and its personnel;

11 (d) private court reporters and their staff to whom disclosure is reasonably
12 necessary for this Action and who have signed the “Acknowledgment and
13 Agreement to Be Bound” (Exhibit A);

14 (e) professional jury or trial consultants, mock jurors, and Professional
15 Vendors to whom disclosure is reasonably necessary for this Action and who have
16 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

17 (f) the author or recipient of a document containing the information or a
18 custodian or other person who otherwise possessed or knew the information; and

19 (g) any mediator or settlement officer, and their supporting personnel,
20 mutually agreed upon by any of the parties engaged in settlement discussions.

21 8.4 Procedures for Approving or Objecting to Disclosure of Protected
22 Material to Experts. Unless agreed to in writing by the Designating Party:

23 (a) a party seeking to disclose to an expert (as defined in this Order) any
24 material or information designated as Protected Material must first make a written
25 request to the Designating Party that (i) sets forth the full name of the expert and the
26 city and state of his or her primary residence, (ii) attaches a copy of the expert’s
27 current resume, including a list of publications authored in the last 10 years,
28 (iii) attaches a signed copy of the expert’s “Acknowledgment and Agreement to Be

1 “Bound” (Exhibit A), (iv) identifies the expert’s current employer(s), (v) identifies
2 each person or entity from whom the expert has received compensation or funding
3 for work in his or her areas of expertise (including in connection with litigation) in
4 the past four years, and (vi) identifies (by name and number of the case, filing date,
5 and location of court) any litigation where the expert has offered expert testimony,
6 including by declaration, report or testimony at deposition or trial, in the past four
7 years. If the expert believes any of the information at (iv)–(vi) is subject to a
8 confidentiality obligation to a third party, then the expert should provide whatever
9 information the expert believes can be disclosed without violating any
10 confidentiality agreements, and the party seeking to disclose the information to the
11 expert shall be available to meet and confer with the Designating Party regarding
12 any such confidentiality obligations.

13 (b) The party who received the written request shall have three (3) business
14 days after the request to object to the expert’s receipt of any Protected Material.
15 After three days, if no such objection is made, the party that makes a written request
16 and provides the information specified in Section 8.4(a) may disclose the Protected
17 Material to the identified expert.

18 (c) If the party who receives the written request makes an objection pursuant
19 to Paragraph 8.4(b), the Parties shall make themselves available for a telephonic
20 meet and confer within one business day of the objection. Should the parties be
21 unable to resolve the objection, then the Party objecting to the disclosure shall raise
22 this matter with the Court pursuant to the Court’s informal telephonic conference
23 process for discovery disputes, and the burden in such dispute shall be on the
24 objecting party to justify the objection. Objections that are shown to be clearly
25 unjustified or that have been made for an improper purpose (e.g., to unnecessarily
26 encumber the case development process or to impose unnecessary expenses and
27 burdens on other parties) may expose the objecting party to sanctions. Failure to
28 raise an objection with the Court within three business days after the parties’

1 conferral regarding the objection shall be deemed approval (unless this period is
 2 tolled by agreement), and the proposed expert(s) shall thereafter be qualified to have
 3 access to Protected Material.

4 9. PROTECTED MATERIAL SUBPOENAED OR ORDERED
 5 PRODUCED IN OTHER LITIGATION

6 If a Party is served with a subpoena or a court order issued in other litigation
 7 that compels disclosure of any information or items designated in this Action as
 8 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL -- ATTORNEYS’ EYES
 9 ONLY,” that Party must:

10 (a) promptly notify in writing the Designating Party. Such notification
 11 shall include a copy of the subpoena or court order unless prohibited by law;

12 (b) promptly notify in writing the party who caused the subpoena or order
 13 to issue in the other litigation that some or all of the material covered by the
 14 subpoena or order is subject to this Protective Order. Such notification shall include
 15 a copy of this Protective Order; and

16 (c) cooperate with respect to all reasonable procedures sought to be
 17 pursued by the Designating Party whose Protected Material may be affected.

18 If the Designating Party timely seeks a protective order, the Party served with
 19 the subpoena or court order shall not produce any information designated in this
 20 action as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL -- ATTORNEYS’
 21 EYES ONLY” before a determination by the court from which the subpoena or
 22 order issued, unless the Party has obtained the Designating Party’s permission, or
 23 unless otherwise required by the law or court order. The Designating Party shall
 24 bear the burden and expense of seeking protection in that court of its confidential
 25 material and nothing in these provisions should be construed as authorizing or
 26 encouraging a Receiving Party in this Action to disobey a lawful directive from
 27 another court.

28 10. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE

1 PRODUCED IN THIS LITIGATION

2 (a) The terms of this Order are applicable to information produced by a
3 Non-Party in this Action and designated as “CONFIDENTIAL” or “HIGHLY
4 CONFIDENTIAL -- ATTORNEYS’ EYES ONLY.” Such information produced by
5 Non-Parties in connection with this litigation is protected by the remedies and relief
6 provided by this Order. Nothing in these provisions should be construed as
7 prohibiting a Non-Party from seeking additional protections.

8 (b) In the event that a Party is required, by a valid discovery request, to
9 produce a Non-Party’s confidential information in its possession, and the Party is
10 subject to an agreement with the Non-Party not to produce the Non-Party’s
11 confidential information, then the Party shall:

12 (1) promptly notify in writing the Requesting Party and the Non-Party
13 that some or all of the information requested is subject to a confidentiality
14 agreement with a Non-Party;

15 (2) promptly provide the Non-Party with a copy of the Protective
16 Order in this Action, the relevant discovery request(s), and a reasonably specific
17 description of the information requested; and

18 (3) make the information requested available for inspection by the
19 Non-Party, if requested.

20 (c) If a Non-Party represented by counsel fails to commence the process
21 called for by Local Rules 45-1 and 37-1, *et seq.* within 14 days of receiving the
22 notice and accompanying information or fails contemporaneously to notify the
23 Receiving Party that it has done so, the Receiving Party may produce the Non-
24 Party’s confidential information responsive to the discovery request. If an
25 unrepresented Non-Party fails to seek a protective order from this court within 14
26 days of receiving the notice and accompanying information, the Receiving Party
27 may produce the Non-Party’s confidential information responsive to the discovery
28 request. If the Non-Party timely seeks a protective order, the Receiving Party shall

1 not produce any information in its possession or control that is subject to the
 2 confidentiality agreement with the Non-Party before a determination by the court
 3 unless otherwise required by the law or court order. Absent a court order to the
 4 contrary, the Non-Party shall bear the burden and expense of seeking protection in
 5 this court of its Protected Material.

6 11. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

7 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
 8 Protected Material to any person or in any circumstance not authorized under this
 9 Protective Order, the Receiving Party must immediately (a) notify in writing the
 10 Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve
 11 all unauthorized copies of the Protected Material, (c) inform the person or persons to
 12 whom unauthorized disclosures were made of all the terms of this Order, and
 13 (d) request such person or persons to execute the “Acknowledgment and Agreement
 14 to Be Bound” (Exhibit A).

15 12. INADVERTENT PRODUCTION OF PRIVILEGED OR
 16 OTHERWISE PROTECTED MATERIAL

17 When a Producing Party gives notice to Receiving Parties that certain
 18 inadvertently produced material is subject to a claim of privilege or other protection,
 19 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
 20 Procedure 26(b)(5)(B). This provision is not intended to modify whatever
 21 procedure may be established in an e-discovery order that provides for production
 22 without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and
 23 (e), insofar as the parties reach an agreement on the effect of disclosure of a
 24 communication or information covered by the attorney-client privilege or work
 25 product protection, the parties may incorporate their agreement into this Protective
 26 Order.

27 13. MISCELLANEOUS

28 13.1 Right to Further Relief. Nothing in this Order abridges the right of any

1 person to seek its modification by the Court in the future.

2 13.2 Right to Assert Other Objections. No Party waives any right it
3 otherwise would have to object to disclosing or producing any information or item
4 on any ground not addressed in this Protective Order. Similarly, no Party waives
5 any right to object on any ground to use in evidence of any of the material covered
6 by this Protective Order.

7 13.3 Filing Protected Material. A Party that seeks to file under seal any
8 Protected Material must comply with Civil Local Rule 79-5 and with any pertinent
9 orders of the assigned District Judge and Magistrate Judge. Protected Material may
10 only be filed under seal pursuant to a court order authorizing the sealing of the
11 specific Protected Material at issue. If a Party's request to file Protected Material
12 under seal is denied by the court, then the Receiving Party may file the information
13 in the public record unless otherwise instructed by the court.

14 The parties further acknowledge, as set forth in Section 12.3, below, that this
15 Stipulated Protective Order does not entitle them to file confidential information
16 under seal; Local Civil Rule 79-5 sets forth the procedures that must be followed
17 and the standards that will be applied when a party seeks permission from the court
18 to file material under seal.

19 There is a strong presumption that the public has a right of access to judicial
20 proceedings and records in civil cases. In connection with non-dispositive motions,
21 good cause must be shown to support a filing under seal. *See Kamakana v. City and*
22 *County of Honolulu*, 447 F.3d 1172, 1176 (9th Cir. 2006), *Phillips v. Gen. Motors*
23 *Corp.*, 307 F.3d 1206, 1210-11 (9th Cir. 2002), *Makar-Welbon v. Sony Electrics,*
24 *Inc.*, 187 F.R.D. 576, 577 (E.D. Wis. 1999) (even stipulated protective orders
25 require good cause showing), and a specific showing of good cause or compelling
26 reasons with proper evidentiary support and legal justification, must be made with
27 respect to Protected Material that a party seeks to file under seal. The parties' mere
28 designation of Disclosure or Discovery Material as CONFIDENTIAL does not—

1 without the submission of competent evidence by declaration, establishing that the
 2 material sought to be filed under seal qualifies as confidential, privileged, or
 3 otherwise protectable—constitute good cause.

4 Further, if a party requests sealing related to a dispositive motion or trial, then
 5 compelling reasons, not only good cause, for the sealing must be shown, and the
 6 relief sought shall be narrowly tailored to serve the specific interest to be protected.
 7 *See Pintos v. Pacific Creditors Ass 'n*, 605 F.3d 665, 677-79 (9th Cir. 2010). For
 8 each item or type of information, document, or thing sought to be filed or introduced
 9 under seal in connection with a dispositive motion or trial, the party seeking
 10 protection must articulate compelling reasons, supported by specific facts and legal
 11 justification, for the requested sealing order. Again, competent evidence supporting
 12 the application to file documents under seal must be provided by declaration.

13 Any document that is not confidential, privileged, or otherwise protectable in
 14 its entirety will not be filed under seal if the confidential portions can be redacted.
 15 If documents can be redacted, then a redacted version for public viewing, omitting
 16 only the confidential, privileged, or otherwise protectable portions of the document,
 17 shall be filed. Any application that seeks to file documents under seal in their
 18 entirety should include an explanation of why redaction is not feasible.

19 **14. FINAL DISPOSITION**

20 After the final disposition of this Action, as defined in Section 4, within 60
 21 days of a written request by the Designating Party, each Receiving Party must return
 22 all Protected Material to the Producing Party or destroy such material. As used in
 23 this subdivision, “all Protected Material” includes all copies, abstracts, compilations,
 24 summaries, and any other format reproducing or capturing any of the Protected
 25 Material. Whether the Protected Material is returned or destroyed, the Receiving
 26 Party must submit a written certification to the Producing Party (and, if not the same
 27 person or entity, to the Designating Party) by the 60 day deadline that (1) identifies
 28 (by category, where appropriate) all the Protected Material that was returned or

1 destroyed and (2) affirms that the Receiving Party has not retained any copies,
2 abstracts, compilations, summaries or any other format reproducing or capturing any
3 of the Protected Material. Notwithstanding this provision, Counsel are entitled to
4 retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing
5 transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert
6 reports, attorney work product, and consultant and expert work product, even if such
7 materials contain Protected Material. Any such archival copies that contain or
8 constitute Protected Material remain subject to this Protective Order as set forth in
9 Section 4.

10 15. Any violation of this Order may be punished by any and all appropriate
11 measures including, without limitation, contempt proceedings and/or monetary
12 sanctions.

13

14 IT IS SO ORDERED.

15 DATED: June 13, 2024

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Honorable Douglas F. McCormick
United States Magistrate Judge

1 **IT IS SO STIPULATED**, through Counsel of Record:
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3 DATED: June 13, 2024

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LOCKE LORD LLP

By /s/ Daniel A. Solitro

Daniel A. Solitro
William D. Foley
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Alexandra G. Lancey

Attorneys for Plaintiffs

DATED: June 13, 2024

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By /s/ Ryan Landes

Andrew J. Roszman
Ryan Landes
Victoria B. Parker
Nicole Battaglia

Attorneys for Defendants

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____ [print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Protective Order that was issued by the United States District Court for the Central District of California on _____ in the case of _____ . I agree to comply with and to be bound by all the terms of this Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Central District of California for the purpose of enforcing the terms of this Protective Order, even if such enforcement proceedings occur after termination of this action. I hereby appoint _____ [print or type full name] of _____ [print or type full address and telephone number] as my California agent for service of process in connection with this action or any proceedings related to enforcement of this Protective Order.

Date:

City and State where sworn and signed:

Printed name:

Signature: